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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,879	08/18/2003	David Morrow	WLI 1063 PUS	3318

7590

03/27/2006

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/642,879	<b>Applicant(s)</b> MORROW ET AL.	
	<b>Examiner</b> Mike Chambers	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 19-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

In line 14: it appears "metal tube" should be – tube –.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "tactile feedback to the user" in the claim is a relative term which renders the claims indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is also not clear to the examiner how a tactile feedback is possible. Since the exterior surface is the only surface touched by the user, how can the user differentiate between the variations of thicknesses in the shaft?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,4-7, and 19-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilcox (1963057). Wilcox discloses a one-piece hollow tube having an interior surface and an exterior surface, said hollow tube having a first end for communicating with a throat portion of a lacrosse head and a second end opposing said first end, said exterior surface having a generally uniform dimension along its length and comprising a plurality of sides; said hollow tube being divisible into a first half on one side of a centerline-of-the handle and a second half on the other side of the centerline of the handle; wherein said hollow tube has a first thickness defined by a distance between said interior surface and said exterior surface at a first location along said hollow tube; said first location in said first half of said hollow tube, said first location comprising at least a portion of at least two-adjacent sides of and a second thickness defined by a distance between said interior surface substantially throughout said second half of said hollow metal tube; wherein said first thickness has a greater magnitude than said second thickness at a given longitudinal cross section of the handle (fig 8).

As to claim 2 : Wilcox discloses a metal tube (2:64-65, fig 1).

As to claim 4 : Wilcox discloses a uniform first thickness ( fig 6, item 5).

As to claim 5 : Wilcox discloses a second uniform thickness ( fig 6, wall thickness item 25).

As to claim 6 : Wilcox discloses a tube that tapers from top to bottom (fig 1). In as much structure set forth by the applicant in the claims, the device has a taper from top to bottom.

As to claim 7 : Wilcox discloses an extruded metal tube (fig 1).

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As to claims 19 and 23 : See claim 1 rejection.

As to claims 20 and 21 : Wilcox discloses a greater first thickness ( fig 6, item 5).

As to claim 22 : Wilcox discloses a top and bottom half (fig 6).

As to claim 24 : Wilcox discloses a metal tube (2:64-65, fig 1).

As to claim 25 : Wilcox discloses a greater magnitude first thickness ( fig 6, item 5).

As to claim 26 : Wilcox discloses a top and bottom half (fig 6).

Also,

Claims 1-8, and 19-27 are rejected under 35 U.S.C. 102(b) as being anticipated by McNeil (3972529). McNeil discloses a

one-piece hollow tube having an interior surface and an exterior surface ,said hollow tube having a first end for communicating with a throat portion of a lacrosse head and a second end opposing said first end, said exterior surface having a generally uniform dimension along its length and comprising a plurality of sides; wherein said hollow tube has a first thickness defined by a distance between said interior surface and said exterior surface at a first location along said hollow tube; said first location comprising at least a portion of at least two-adjacent sides of said plurality of sides. and a second thickness defined by a distance between said interior surface and said exterior surface at a second location along said hollow metal tube; wherein said first thickness has a greater magnitude than said second thickness (fig 1,4).

As to claim 2 : McNeil discloses a metal tube ( fig 2).

As to claim 4 : McNeil discloses a uniform first thickness (fig 1,4).

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As to claim 5 : McNeil discloses a second uniform thickness ( fig 3, wall thickness item 14).

As to claim 6 : McNeil discloses a tube that tapers from top to bottom (fig 1). In as much structure set forth by the applicant in the claims, the device has a taper from top to bottom.

As to claim 7 : McNeil discloses an extruded metal tube (fig 2).

As to claim 8 : McNeil discloses an aluminum tube (fig 2).

As to claims 19 and 23 : See claim 1 rejection.

As to claims 20 and 21 : McNeil discloses a greater first thickness ( fig 4 cross-section at wedge ).

As to claim 22 : McNeil discloses a top and bottom half (fig 6).

As to claim 24 : McNeil discloses a metal tube (fig 2).

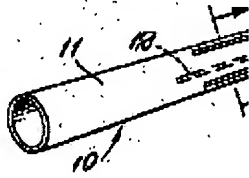
As to claim 25 : McNeil discloses a greater magnitude first thickness ( fig 2,4).

As to claim 26 : McNeil discloses a top and bottom half (fig 4).

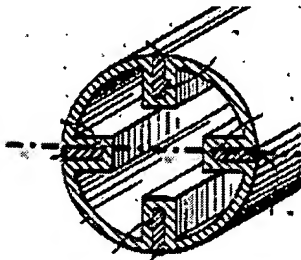
As to claim 27 : McNeil discloses a first and second thickness that provides tactile feedback (fig 4).

### ***Response to Arguments***

Applicant's arguments filed 12/16/05 have been fully considered but they are not persuasive. Although the argument is made that the invention is directed towards the thickness of the handle, the claim language can be broadly read to read on the cited art. For example, McNeil discloses a hollow tube.



The claim language then calls for division of the handle by a centerline



And having a first and second thickness defined by a distance between an interior surface and an exterior surface



first thickness



second thickness

wherein the first thickness is greater than the second.

The argument that McNeil is not a one piece hollow tube is not understood. Since the claim language is all inclusive i.e. comprising, McNeil is a one piece hollow tube that is modified to include inserts.

The use of eccentrically shaped sports shafts is not novel as shown in US Pat 3,697,069.

**Conclusion**

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3697069

Michael Chambers  
Examiner  
Art Unit 3711

March 22, 2006



EUGENE KIM  
SUPERVISORY PATENT EXAMINER